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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/644,484	08/23/2000	Edward E. Belfiglio	TSM1 : 001	2274

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 02/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/644,484

Applicant(s)
Belfiglio

Examiner
Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 11, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20 is/are pending in the application.
- 4a) Of the above, claim(s) 2-6 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-12, 14-17, and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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DETAILED ACTION

1. The amendment filed November 11, 2002 has been entered. It is noted that in view of the new amendment practice under 37 CFR 1.121 which became mandatory for all amendments on March 1, 2001, and due to the limited amount of examining time per application, if the amendment contains changes to existing language that requires a marked-up version showing those changes, the Examiner is relying upon the marked-up version(s) for examination of the application. It is applicant's responsibility to ensure that the clean version(s) is (are) the same as the marked-up version(s). It is further noted that the clean version(s) is (are) considered to be the Official version(s).

Claim Rejections - 35 USC § 112

2. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, line 2, [✓]the recitation "one or more threaded openings" renders the claim vague and indefinite as to what disclosed structure it refers, particularly in view of the recitation of "means for connecting said bi-metallic block to a base plate ..." in claim 17 from which claim 20 depends, and it is suggested in line 2 to change "bi-metallic block" to --connecting means-- or the like.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Morgan, pn 6,202,528.

Regarding claim 1, Morgan discloses a guide with every structural limitation of the claimed invention including a guide block (e.g., 7, 4, 20, 20) having a first surface (e.g., the lower surface of the lower occurrence of 20 as viewed in Figure 1) and a second opposing surface (e.g., the upper surface of 7 as viewed in Figure 1); a threaded shaft (e.g., 9); a securing nut (e.g., 10).

Regarding claim 10, Morgan discloses a guide with every structural limitation of the claimed invention including a base plate (e.g., 4 and/or 7); a threaded shaft (e.g., 9) having a first

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end rotatably engaging the base plate; an insert (e.g., 20, 20); and means (e.g., 10) for selectively non-rotatably engaging the base plate and the threaded shaft.

5. Claims 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Edmisson, pn 4,625,810.

Edmisson discloses a metallic insert (i.e., a metallic structure, e.g., 10, 36) with every structural limitation of the claimed invention.

6. Claims 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al., pn 4,632,074.

Takahashi et al. discloses a metallic insert (i.e., a metallic structure, e.g., 7, 11) with every structural limitation of the claimed invention.

7. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Krebsbach, pn 5,993,915.

Krebsbach discloses a metallic insert (i.e., a metallic structure) with every structural limitation of the claimed invention.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7-9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan, pn 6,202,528 in view of Robinson, pn 3,104,575.

Morgan discloses carbide wear components 20, 21 and thus lacks a bimetallic guide block as claimed. Robinson discloses that the wear components can be made of hardened steel for the well known benefits including improved wear and guiding characteristics. Therefore, it would have been obvious to one having ordinary skill in the art to replace the carbide wear components of Morgan with the hardened steel wear components thus forming a bimetallic guide block for the well known benefits including those described above.

Regarding the specific type of hardened steel set forth in claims 8, 9 and 12, the Examiner takes Official notice that chromium-carbide including austenitic chromium-carbide is old and well known in the art and has well known benefits including resistance to wear. Therefore, it would have been obvious to one having ordinary skill in the art to make the hardened steel of chromium-carbide including austenitic chromium-carbide for the well known benefits including those described above.

Response to Arguments

10. Applicant's arguments filed November 11, 2002 have been fully considered but they are not persuasive.

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At the end of the first paragraph on page 6 of the amendment, applicant argues that “[N]either the first nor second embodiment of Morgan discloses a guide block which is rotatable with respect to the threaded shaft until a securing nut is engaged with an upper surface of the guide block to prevent rotation thereof.” The Examiner respectfully disagrees with applicant’s analysis. There is nothing in claim 1 which sets forth that the guide block is rotatable with respect to the threaded shaft until a securing nut is engaged with an upper surface of the guide block. Rather, claim 1 requires that the securing nut is “rotatable with respect to the threaded shaft such that a surface of the securing nut engages the second surface of the guide block upon rotation into engagement therewith thereby rendering the threaded shaft nonrotatable in relation to the guide block.” Clearly, Morgan discloses such a structure; for example, when the threaded shaft (e.g., 9) of Morgan is loose, the threaded shaft and the guide block are rotatable in relation to each other, and when the securing nut (e.g., 10) of Morgan is tightened, it engages the second surface (e.g., the upper surface of 7 as viewed in Figure 1) of the guide block thereby rendering the threaded shaft nonrotatable in relation to the guide block (i.e., when the threaded shaft is tightened, it will no longer be rotatable).

In the second paragraph on page 6 of the amendment, applicant argues that “neither the first nor second embodiment of Morgan discloses any such means for rendering the base plate which is normally rotatably connected to the shaft, non-rotatable with respect to the shaft.” The Examiner again respectfully disagrees with applicant’s analysis. First, the “means for selectively non-rotatably engaging the base plate and the threaded shaft” as set forth in claim 10 corresponds

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to securing nut 30. Morgan discloses such a securing nut (e.g., 10). Second, there is nothing in claim 10 that sets forth the base plate being normally rotatably connected to the shaft. However, the Examiner's position is that Morgan discloses structure (e.g., nut 10) for rendering the base plate and the shaft non-rotatable with respect to one another.

In the third full paragraph on page 7 of the amendment, applicant argues that "Edmisson does not teach a 'metallic insert for a saw blade guide' as specified in claims 14-20 but to the contrary teaches a tillage tool." The Examiner respectfully submits that applicant's argument is not understood. Applicant appears to be arguing that the intended use of the claimed device distinguishes it over the prior art. However, as applicant is well aware, it is well settled case law that a functional recitation of intended use cannot serve to distinguish a claimed invention over the prior art. Further, there appears to be no structure that is clearly implied by the functional recitations in the claim which would distinguish the claimed invention over the prior art. Edmisson clearly discloses a bi-metallic device wherein one of the metals is harder than the other. It is emphasized that the Examiner's position is not that Edmisson is used for the same purpose as that of the present invention. Rather, the Examiner's position is that Edmisson discloses a device with all of the claimed structure.

Similarly, it is respectfully submitted that applicant's arguments regarding the prior art rejections over Takahashi and Krebsbach are not understood, and the Examiner's position is that the prior art meets the claimed limitations in a manner similar to that described for Edmisson above.

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Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Tuesday through Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3590; informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd
February 10, 2003